

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)	
)	
Indiana Harbor Coke Company,)	NOTICE OF VIOLATION
L.P., East Chicago, Indiana)	
)	EPA-5-02-13-IN
Cokenergy, Inc.,)	
Merrillville, Indiana)	
)	
Ispat Inland Steel Company)	
East Chicago, Indiana)	
)	
Proceedings Pursuant to)	
Section 113(a)(1) and (a)(3))	
of the Clean Air Act,)	
42 U.S.C. § 7413(a)(1) and)	
(a)(3))	

NOTICE OF VIOLATION

The Administrator of the United States Environmental Protection Agency (U.S. EPA) is issuing the Notice of Violation under Section 113(a)(1) and (a)(3) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(1) and (a)(3), as well as this Finding of Violation. U.S. EPA finds that Indiana Harbor Coke Company (IHCC), Cokenergy, Inc. (Cokenergy), Ispat Inland Steel Company (Ispat Inland) is violating Part D of the CAA, 42 U.S.C. §§ 7501-7515, the federally-approved Indiana State Implementation Plan (SIP), and Sections 502 and 503 of the CAA, 42 U.S.C. §§ 7661a-7661b, as follows:

Statutory and Regulatory Background

1. On March 3, 1978, the U.S. designated portions of Lake County, Indiana, to non-attainment for sulfur dioxide (SO₂). 40 Fed. Reg. § 8962.
2. Part D of the CAA, 42 U.S.C. §§ 7501-7515, sets forth state implementation plan requirements for non-attainment areas.
3. On June 24, 1994, as amended July 21, 1997 and September 19, 1997, U.S. EPA approved Indiana SIP Rule 326 IAC 2-1-03, which prohibits the construction of any new emission source or air pollution control equipment, or the modification of any existing emission source or air pollution control equipment, without first obtaining a construction permit

from the State of Indiana as part of the federally enforceable SIP for Indiana. 62 Fed. Reg. 38919.

4. On April 9, 1988, as amended on October 7, 1994, and December 6, 1994, U.S. EPA approved Indiana SIP Rule 326 IAC 2-3, containing requirements for new or modified stationary sources or major modifications constructed in non-attainment areas, as part of the federally enforceable SIP for Indiana. 59 Fed. Reg. 51108. This rule replaced APC 19.
5. 326 IAC 2-3-1(q)(1) states that a "major stationary source" is any stationary source of air pollutants which emits, or has the potential to emit, one hundred (100) tons per year or more of any air pollutant subject to regulation under the Clean Air Act.
6. 326 IAC 2-3-2(a) states that new or modified major stationary sources or major modifications, constructed in an area designated in 326 IAC 1-4 as non-attainment for a pollutant for which the stationary source or modification is major, are subject to 326 IAC 2-3.
7. 326 IAC 2-3-3(a)(2) states that, prior to the issuance of a construction permit, the applicant must apply emission limitation devices or techniques to the proposed construction or modification such that it achieves the Lowest Achievable Emission Rate (LAER) for the applicable pollutant.
8. 326 IAC 2-3-3(a)(5) requires that emissions resulting from the proposed construction or modification be offset by a reduction in actual emissions of the same pollutant from an existing source or combination of existing sources.
9. 326 IAC 2-3-3(a)(6) states that the applicant must obtain the necessary preconstruction approvals and must meet all the permit requirements specified in Indiana SIP rule 326 IAC 2-1.
10. On April 9, 1988, as amended on October 7, 1994, and December 6, 1994, U.S. EPA approved Indiana SIP Rule 326 IAC 2-1-04, which prohibits the operation of any new or modified emission source or air pollution control equipment subject to 326 IAC 2-1-1(b)(1), without first obtaining an operating permit from the State of Indiana as part of the federally enforceable SIP for Indiana. 59 Fed. Reg. 51108.
11. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), provides

that no source may operate without a Title V permit after the effective date of any permit program approved or promulgated under Title V of the CAA.

12. Section 503(d) of the CAA, 42 U.S.C. § 7661b(d), sets forth the requirement to timely submit an application for a permit, including required information.
13. 40 C.F.R. § 70.5(a) provides that an owner or operator shall submit a timely and complete permit application in accordance with Part 70 requirements.
14. 40 C.F.R. § 70.7(b) provides that no source subject to Part 70 requirements may operate without a permit as specified in the CAA.
15. U.S. EPA promulgated final interim approval of the Indiana Title V program on November 14, 1995 (60 Fed. Reg. 57188), and the program became effective on December 14, 1995.

Factual Findings

16. IHCC, Cokenergy and Ispat Inland owns and/or operates a Heat Recovery Coal Carbonization (HRCC) facility at the Ispat Inland Steel integrated steel mill at 3210 Watling Street in East Chicago, Indiana.
17. The Ispat Inland integrated steel mill is classified as a major stationary source. The Ispat Inland Steel facility is also classified as one of the 28 listed source categories, specified in 40 C.F.R. § 51.166(i)(4)(ii).
18. The HRCC facility in East Chicago, Indiana is located in Lake County, which has been designated as a non-attainment area for sulfur dioxide (SO₂), 40 C.F.R. § 81.315.
19. On December 30, 1996, the Indiana Department of Environmental Management issued a minor source permit for IHCC, Cokenergy and Ispat Inland's construction of a non-recovery coke oven battery which took place sometime in 1997. For the purposes of New Source Review, this modification is considered to be a modification of the Ispat Inland Steel integrated steel mill, according to the Indiana State Construction Permit Number 089-6919-000316.
20. The HRCC modification had the potential to emit more than 40 tons per year of SO₂, which is considered *significant* according to 40 C.F.R. § 51.166(b)(23)(i).

21. SO₂ emissions from IHCC, Cokenergy and Ispat Inland's coke production facility are subject to the SO₂ regulations for new and modified major stationary sources in non-attainment areas in 326 IAC 2-3.

Violations

22. During 1997, IHCC, Cokenergy and Ispat Inland constructed its coke production facility, a major modification to a major stationary source of SO₂, in a non-attainment area, without obtaining the necessary preconstruction approvals and without meeting all the preconstruction permit requirements specified in the federally-approved Indiana SIP, Section 326 IAC 2-1. Therefore, IHCC, Cokenergy and Ispat Inland is in violation of the New Source Review requirements of the federally-approved Indiana SIP, Section 326 IAC 2-3-3(a)(6), as approved at 40 C.F.R. § 52.773(c), 40 C.F.R. § 52.24, and 40 C.F.R. Part 51, Appendix S.
23. IHCC, Cokenergy and Ispat Inland constructed its coke production facility, a major modification to a major stationary source of SO₂, in a non-attainment area, without the application of emission limitation devices or techniques such that the LAER for SO₂ will be achieved, in violation of the New Source Review requirements of the federally-approved Indiana SIP, Section 326 IAC 2-3-3(a)(2), as approved at 40 C.F.R. § 52.773(c), as well as 40 C.F.R. § 52.24, and 40 C.F.R. Part 51, Appendix S.
24. IHCC, Cokenergy and Ispat Inland constructed its coke production facility, a major modification to a major stationary source of SO₂, in a non-attainment area, without acquiring greater than one-for-one offsets by a reduction in actual emissions of the same pollutant from an existing source or combination of existing sources, in violation of the New Source Review requirements of the federally-approved Indiana SIP, Sections 326 IAC 2-3-3(a)(5) and 326 IAC 2-3-3(b), as approved at 40 C.F.R. § 52.773(c), as well as 40 C.F.R. § 52.24, and 40 C.F.R. Part 51, Appendix S.
25. IHCC, Cokenergy and Ispat Inland constructed its coke production facility, a major modification to a major stationary source of SO₂, in a non-attainment area, without either: (1) demonstrating that all existing major sources owned and operated by IHCC, Cokenergy and Ispat Inland in the state of Indiana are in compliance with all applicable emission limitations and standards contained in the Clean Air Act and in its title; or (2) demonstrating that IHCC,

Cokenergy and Ispat Inland are in compliance with a federally enforceable compliance schedule requiring compliance as expeditiously as possible. Therefore, IHCC, Cokenergy and Ispat Inland is in violation of the New Source Review requirements of the federally-approved Indiana SIP, Section 326 IAC 2-3-3(a)(3), as approved at 40 C.F.R. § 52.773(c), as well as 40 C.F.R. § 52.24, and 40 C.F.R. Part 51, Appendix S.

26. IHCC, Cokenergy and Ispat Inland constructed its coke production facility, a major modification to a major stationary source of SO₂, in a non-attainment area, without submitting an analysis of alternative sites, sizes, production processes, and environmental control techniques which demonstrates that the benefits of the IHCC, Cokenergy and Ispat Inland coke production facility modification significantly outweighs the environmental and social costs imposed as a result of IHCC, Cokenergy and Ispat Inland's current location of its modification, in violation of the New Source Review requirements of the federally-approved Indiana SIP, Section 326 IAC 2-3-3(a)(4), as approved at 40 C.F.R. § 52.773(c), as well as 40 C.F.R. § 52.24, and 40 C.F.R. Part 51, Appendix S.
27. IHCC, Cokenergy and Ispat Inland has operated and continues to operate its facility without an operating permit which incorporates the New Source Review requirements, violating the Indiana SIP.
28. Each of these violations in paragraphs 24 through 29 exists from at least the date of start of construction and continues until the appropriate permits are obtained and the necessary pollution control equipment is installed and operated.
29. Indiana Harbor Coke Company (IHCC), Cokenergy, Inc. (Cokenergy) and Ispat Inland Steel Company (Ispat Inland) have failed to submit a timely and complete Title V permit application with information pertaining to the construction and operation of the coke production facility, a major modification to a major stationary source of SO₂, violating Section 503 of the CAA and the regulations at 40 C.F.R. §§ 70.5(a) and 70.7(b), thereby violating Section 502 of the CAA.
30. These violations exist from December 14, 1995, and continue until IHCC, Cokenergy and Ispat Inland submit a complete Title V permit application.

FINDING OF VIOLATION

The Administrator of the U.S. EPA, by authority duly delegated to the undersigned, notifies the State of Indiana and IHCC, Cokenergy and Ispat Inland that IHCC, Cokenergy and Ispat Inland is in violation of Part D of the CAA, the Indiana SIP, and Sections 502 and 503 of the CAA as set forth in this Notice of Violation.

6/26/02
Date

ALTING
Stephen Rothblatt, Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent a Notice of Violation by Indiana Harbor Coke Company, Cokenergy, Inc. and Ispat Inland Steel Company, to:

Mr. Kenneth J. Schuett
Vice President and General Manager
Indiana Harbor Coke Company
3210 Watling Street (MC 2-990)
Post Office Box 240
East Chicago, Indiana 46312

John Fekete, Director
Environmental Affairs
Ispat Inland Steel Company
Indiana Harbor Works
3210 Watling Street
East Chicago, Indiana 46312

Mr. Arthur E. Smith
Cokenergy, Inc.
801 East 86th Ave.
Merrillville, Indiana 46410

I also certify that I sent a copy of the Notice and Finding of Violation by First Class Mail to:

David McIver, Chief
Office of Enforcement Air Section
Indiana Department of Environmental Management
100 North Senate Avenue, Room 1001
Indianapolis, IN 46206-6015

on the 27th day of June 2002.

Betty Williams
Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7099 3400 0000 95868400 - Mr. Kenneth J. Schuett
7099 3400 0000 95868462 - Mr. John Fekete
7099 3400 0000 9586 5324 - Mr. Arthur Smith